

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101

PREPARED BY: Christopher M. Gratz, Planner II

SUBJECT: Quasi Judicial Hearing: Ordinance 1st Reading, Vacation, VA 10-1-04, R & R Davie, LLC./J. Gary Brown, Jr./Doumar, Allsworth, et al., 3550 Weston Road/Generally located on the north side of SW 36 Street (South Post Road), between Weston Road and I-75

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 10-1-04 RICK CASE HYUNDAI, VACATING AN ADDITIONAL RIGHT-OF-WAY DEDICATION AS SHOWN ON THE PLAT OF POINTE WEST CENTER NORTH, AS RECORDED IN PLAT BOOK 172, PAGES 136 AND 137, OF THE PUBLIC RECORDS OF BROWARD COUNTY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The request is to vacate 198 square feet of right-of-way at the northeast corner of Weston Road and SW 36 Street (South Post Road). This parcel was dedicated by the adjoining Pointe West Center North plat to provide for the sight visibility triangle at the intersection of Weston Road and SW 36 Street. The existing right-of-way for SW 36 Street (South Post Road) between Weston Road and I-75 is 280', wide enough to accommodate the roadway. When the parcel was platted the owner was required to dedicate this piece towards right-of-way. The Florida Department of Transportation (FDOT) has determined that this land is not needed for right-of-way and the owner of the Pointe West Center North plat has acquired this property as unused surplus property.

PREVIOUS ACTIONS: At the August 17, 2005, Town Council meeting the request was tabled to September 7, 2005, because at the July 27, 2005, Planning and Zoning Board meeting there was no quorum and the item was automatically tabled to August 10, 2005. (Chair Bender abstained due to a conflict in interest, Mr. Stevens was absent, and Mrs. Lee had resigned.)

CONCURRENCES: At the August 10, 2005, Planning and Zoning Board meeting, Vice-Chair McLaughlin made a motion, seconded by Mr. Stevens, to approve. (Motion carried 4-0, Chair Bender abstained.)

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the application complete and suitable for transmittal to Town Council for consideration.

Attachment(s): Ordinance, Planning Report

Prepared By:

Christopher M. Gratz, Planner II
Town of Davie
Planning and Zoning Division
6591 Orange Drive
Davie, FL 33314

Return To:

Town Clerk's Office
Town of Davie
6591 Orange Drive
Davie, FL 33314

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 10-1-04 RICK CASE HYUNDAI, VACATING AN ADDITIONAL RIGHT-OF-WAY DEDICATION AS SHOWN ON THE PLAT OF POINTE WEST CENTER NORTH, AS RECORDED IN PLAT BOOK 172, PAGES 136 AND 137, OF THE PUBLIC RECORDS OF BROWARD COUNTY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the subject right-of-way was dedicated by the plat of Pointe West Center North and recorded in the Plat Book 172, Page 136 and 137, of the of the Public Records of Broward County, Florida; and

WHEREAS, vacating this right-of-way will not adversely affect access to adjoining properties and will not be in conflict with the public interest; and

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, and a public hearing was held on the date of the adoption of this ordinance; and

WHEREAS, on the date of adoption of this Ordinance, the Town Council of the Town of Davie did agree to the vacation request.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the right-of-way herein after described be vacated by the Town of Davie:

- a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof;

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2005.

PASSED ON SECOND READING THIS _____ DAY OF _____, 2005.

ATTEST:

MAYOR/COUNCILMEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2005.

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division
Staff Report and Recommendation

Applicant Information

Owner:

Name: R & R Davie, LLC
Address: 875 North State Road 7
City: Fort Lauderdale, FL 33317
Phone: (954) 377-7400

Petitioner:

Name: J. Gary Brown, Jr.
Doumar, Allsworth, et al.
Address: 1177 SE 3 Avenue
City: Fort Lauderdale, FL 33316
Phone: (954) 762-3400

Background Information

Date of Notification: July 20, 2005 **Number of Notices:** 10

Application History: No deferrals have been requested by the applicant. The request has been tabled one (1) time Town Council due to lack of a quorum at the Planning and Zoning Board meeting of July 27, 2005.

Application Request: Vacate 198 square feet of right-of-way at the northeast corner of Weston Road and SW 36 Street (South Post Road).

Address/Location: 3550 Weston Road/Generally located on the north side of SW 36 Street (South Post Road), between Weston Road and I-75.

Future Land Use

Plan Map Designation: Residential (1 DU/AC), Commercial Flexibility was applied

Zoning: BP, Business Park District and AG, Agricultural District

Existing/Proposed Use: Automobile dealership

Right-of-Way Parcel Size: 198 square feet (0.0045 acres)

Adjoining Net

Parcel Size: 9.555 acres (416,215.8 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Designation:</u>
North:	I-75	Transportation
South:	SW 36 Street, Davie Volvo-Nissan	Transportation, Commercial
East:	I-75	Transportation
West:	Vacant/Meridian Business Campus	Industrial within Irregular (1.83) Residential
	<u>Surrounding Zoning:</u>	
North:	T, Transportation District	
South:	T, Transportation District, BP, Business Park District	
East:	T, Transportation District	
West:	PDD, Planned Development District (City of Weston)	

Zoning History

Zoning History: The rezoning, ZB 9-2-98, Ordinance 99-03, of the southern portion of the subject site from AG, Agricultural District to BP, Business Park District for 6.45 acres with the utilization of the Broward County “5% residential-to-commercial” flexibility rule was approved on February 3, 1999.

The rezoning, ZB 8-1-99, Ordinance 99-44, of the northern portion of the subject site from AG, Agricultural District to BP, Business Park District for 3.55 acres with the utilization of the Broward County “5% residential-to-commercial” flexibility rule was approved on December 15, 1999.

Plat History: The plat, P 12-1-98 Pointe West Center North, was approved on January 5, 2000, with a note restricting the plat to 55,000 square feet of auto dealership use, and was subsequently recorded in Plat Book 172, Page 136, of the official records of Broward County on June 9, 2003.

The delegation request, DG 5-6-02 Pointe West Center North, was approved on July 3, 2002, to amend the restrictive note on the plat from “This plat is restricted to 55,000 square feet of auto dealership use”; to “This plat is restricted to 100,000 square feet of retail”. The request was not considered by the Broward County Board of County Commissioners and expired.

The delegation request, DG 9-2-04 Pointe West Center North, was approved on December 15, 2004, to amend the restrictive note on the plat from “This plat is restricted to 55,000 square feet of auto dealership use”; to “This plat is restricted to 110,000 square feet of auto dealership use and 215,000 square feet of auto storage use”.

The developer’s agreement, DA 4-2-05 Rick Case Hyundai, was approved on July 6, 2005, to provide for measures to satisfy traffic concurrency on the Regional Road Network.

The delegation request, DG 10-2-04 Rick Case Hyundai, to vacate the existing and to establish a new non-vehicular access line at the northeast corner of Weston Road and SW 36 Street, is being considered by Town Council concurrently with this vacation request.

Site Plan History:

The site plan, SP 11-11-99 Davie Dealership, was approved on February 16, 2000.

The site plan, SP 9-5-02 Rick Case Hyundai, was approved on January 15, 2003.

The site plan modification, SPM 9-2-04 Rick Case Hyundai, was approved on September 22, 2004.

The site plan modification, SPM 2-1-05 Rick Case Hyundai, was approved on April 6, 2005.

Applicable Codes and Ordinances

§12-310 Review of vacations or abandonment of right-of-way.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 1. This Planning Area constitutes the southwestern most portion of the Town, encompassing all of the land south of Griffin Road and west of southwest 148 Avenue. The Ivanhoe development constitutes most of this planning area, which is essentially programmed for low density (3 dwellings per acre) residential development. There are parcels designated for commercial use located in the southern and northern ends of the Ivanhoe development at the intersection of I-75 with Sheridan Street and Griffin Road, and Orange Drive.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 113.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Application Details

The request is to vacate 198 square feet of right-of-way at the northeast corner of Weston Road and SW 36 Street (South Post Road). This parcel was dedicated by the adjoining Pointe West Center North plat to provide for the sight visibility triangle at the intersection of Weston Road and SW 36 Street.

Staff Analysis

The existing right-of-way for SW 36 Street (South Post Road) between Weston Road and I-75 is 280', wide enough to accommodate the roadway. When the parcel was platted the owner was required to dedicate this piece towards right-of-way. The Florida Department of Transportation (FDOT) has determined that this land is not needed for right-of-way and the

owner of the Pointe West Center North plat has acquired this property as unused surplus property.

Findings of Fact

Vacations:

Section 12-310(A) (1):

The following findings of facts apply to the vacation request:

- (a) It will not adversely affect access to neighboring properties

No access to neighboring properties is provided by this right-of-way.

- (b) It will not be in conflict with the public interest

The subject right-of-way serves no public interest. It does not connect to any recreation or equestrian trail, and is not needed for drainage.

Staff Recommendation

Staff finds the application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the August 10, 2005, Planning and Zoning Board meeting, Vice-Chair McLaughlin made a motion, seconded by Mr. Stevens, to approve. (Motion carried 4-0, Chair Bender abstained.)

Town Council Action

Exhibits

1. Justification
2. Survey
3. Future Land Use Plan Map
4. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

JUSTIFICATION STATEMENT
FOR VACATION OF RIGHT-OF-WAY REQUEST

RE: Pointe West Center North Plat

The applicant is the owner of a vacant parcel of land which constitutes the entirety of the Pointe West Center North Plat. The property is a triangular parcel that is bordered on the east side of Interstate 75. Immediately to the south is S.W. 36th Street/South Post Road. The west border of the property is Weston Road and the city limits for the City of Weston. The westernmost border of the subject property is also the western town limit for the Town of Davie. The applicant plans to open a Rick Case Hyundai dealership complete with a parking garage for storage of inventory automobiles.

At the time of recording the Pointe West Center North Plat in June, 2003, the Plat limited development to 55,000 square feet of auto dealership. It was contemplated at that time that the applicant would seek to expand the dealership before it was actually constructed. The applicant now proposes to increase the size of the dealership from 55,000 square feet to 110,000 square feet of auto dealership use and 215,000 square feet of auto storage use.

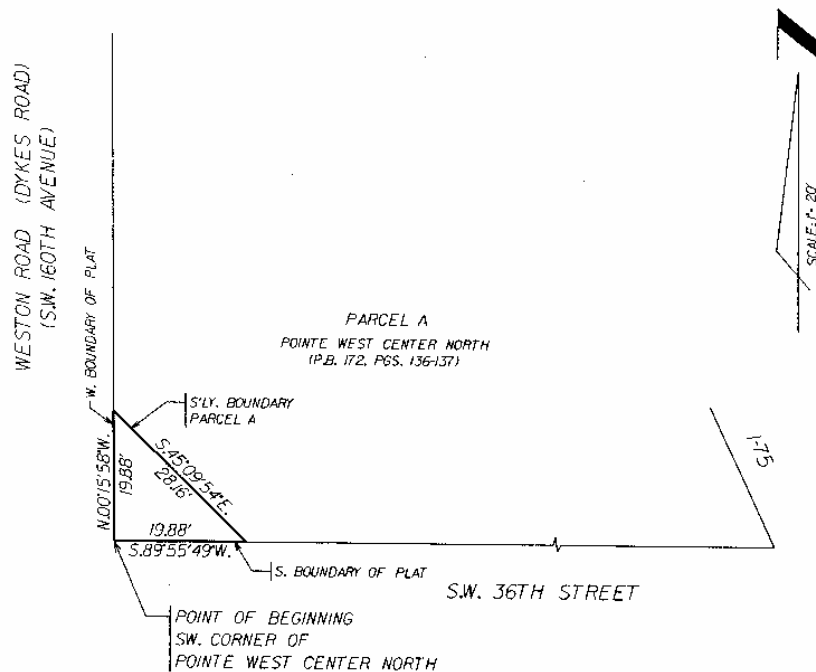
In planning for the expanded size of the dealership, the applicant has been working on traffic concurrency solutions in advance that would allow for the additional size of the proposed dealership.

This area is unused by FDOT along the western boundary. This request accommodates an improved entrance designation along Weston Road.

LEGAL DESCRIPTION

THAT CERTAIN ADDITIONAL RIGHT-OF-WAY DEDICATION AS SHOWN ON THE PLAT OF POINTE WEST CENTER NORTH, AS RECORDED IN PLAT BOOK 172 AT PAGES 136 AND 137 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PLAT OF POINTE WEST CENTER NORTH; THENCE RUN NORTH 00°15'58"W (ON A PLAT BEARING) 19.88 FEET ALONG THE WEST BOUNDARY OF SAID PLAT; THENCE RUN SOUTH 45°09'54"E 28.16 FEET ALONG THE SOUTHERLY BOUNDARY OF PARCEL A, ACCORDING TO SAID PLAT, TO AN INTERSECTION WITH THE SOUTH BOUNDARY OF SAID PLAT; THENCE RUN SOUTH 89°55'49"W 19.88 FEET ALONG SAID SOUTH BOUNDARY, TO THE POINT OF BEGINNING. SAID LANDS SITUATE IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA, AND CONTAINING 198 SQUARE FEET, MORE OR LESS.

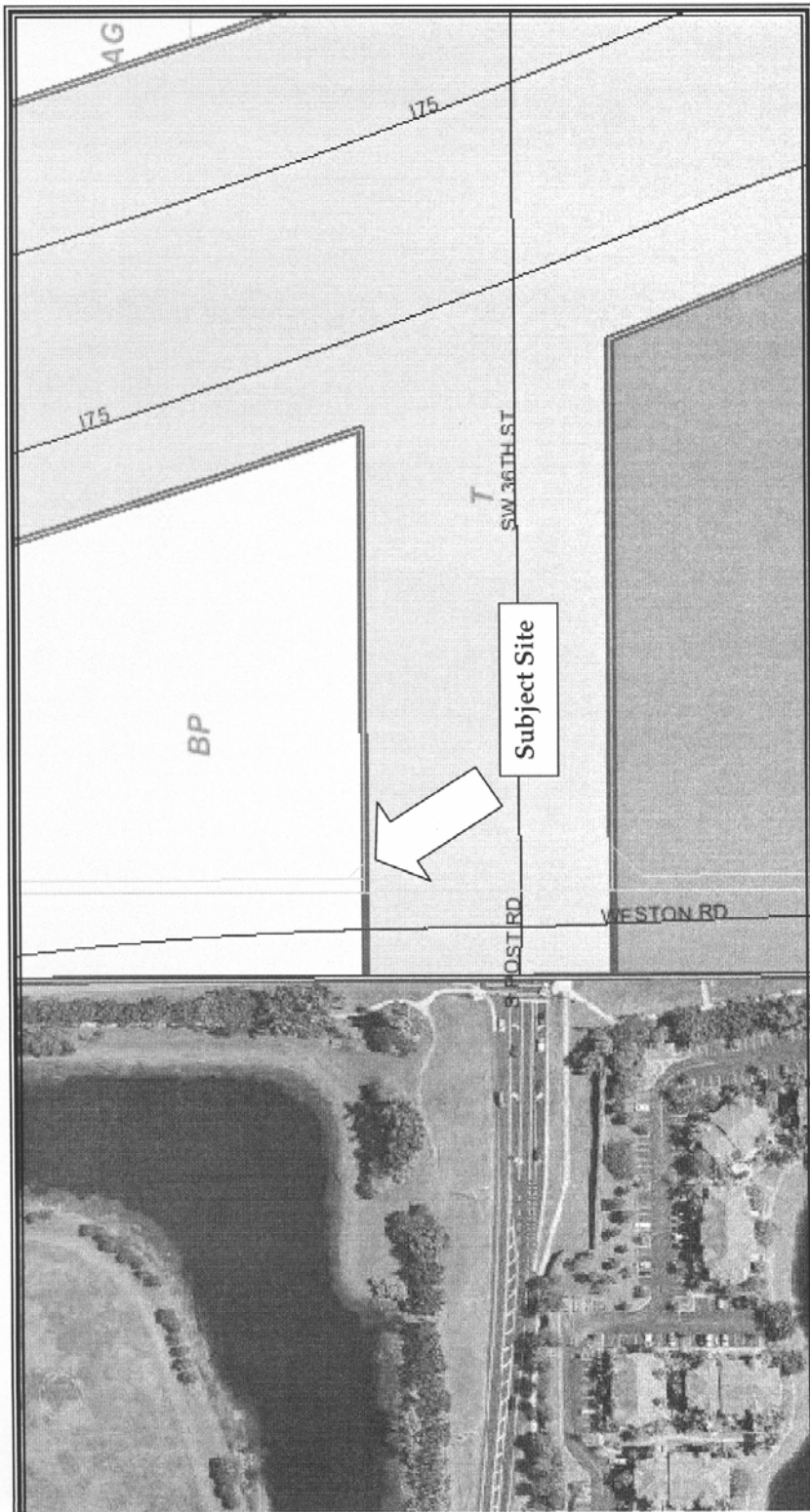


NOTE: NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. THIS IS NOT A SKETCH OF SURVEY. IT IS ONLY THE GRAPHIC REPRESENTATION OF THE DESCRIPTION DEPICTED HEREON.

By: Mark D. Sturgis
MARK D. STURGIS
PROFESSIONAL SURVEYOR AND MAPPER NO. 4829
STATE OF FLORIDA

POINTE WEST CENTER NORTH		ADDITIONAL R/W DEDICATION	
SKETCH AND DESCRIPTION		TO BE VACATED	
WINNINGHAM & FRADLEY, INC. ENGINEERS - PLANNERS - SURVEYORS <small>111 N.E. 44th STREET, OAKLAND PARK, FL 33324 TEL: 771-7440 FAX: 771-7711</small>		DRAWN: <u>CCD</u> DATE: <u>2-01</u> CHECKED: <u>DALE</u> DATE: <u>2-01</u>	PRODUCT NUMBER: <u>98530.01</u> SHEET: <u>1</u>

...98530.01 VACATE ADDL RW dgn Oct 07, 2004 12:34:12



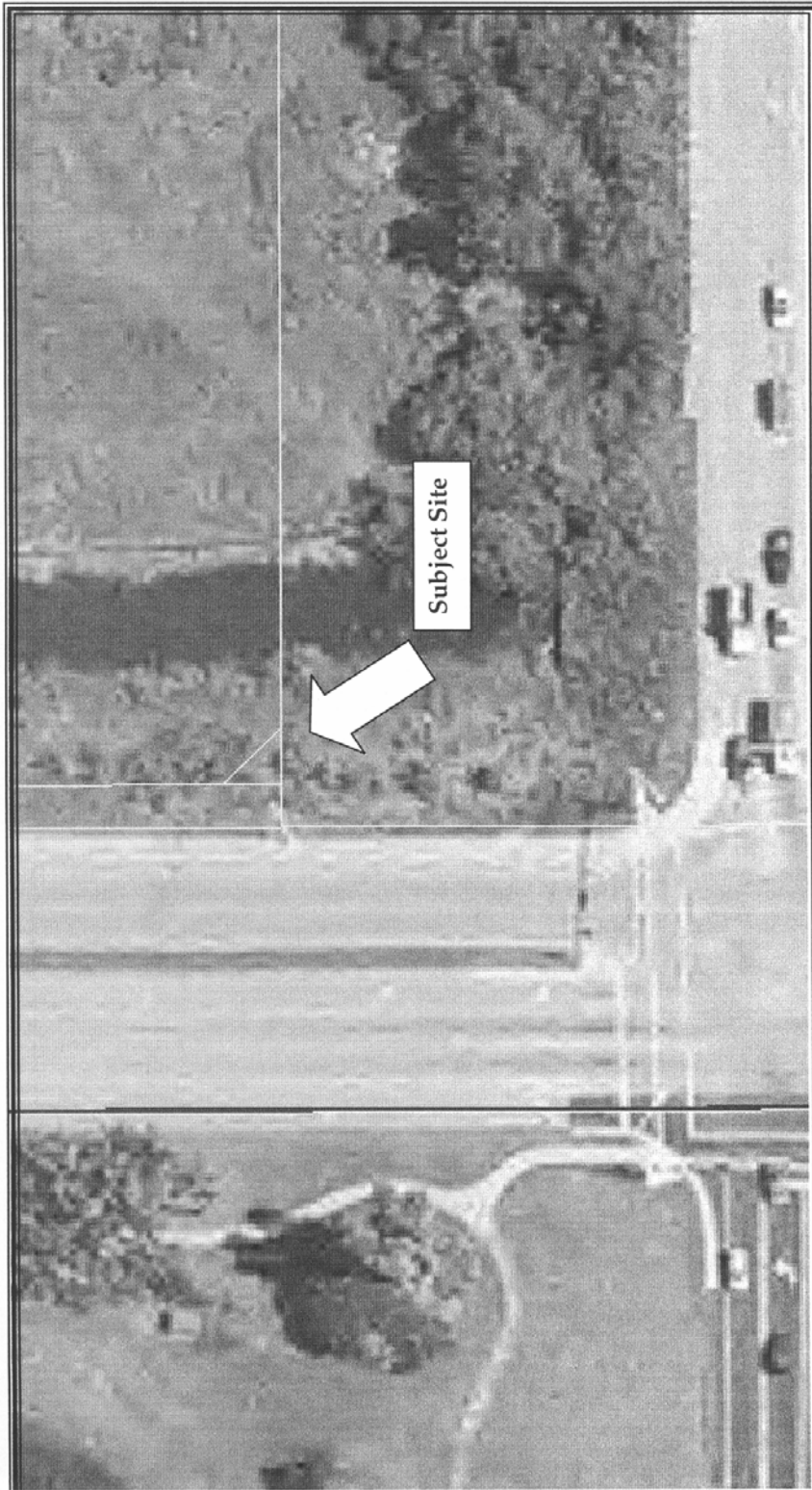
The Town of Davie
Development Services Department
Planning and Zoning Division

scale: N.T.S.



**Vacation of Right-of-Way
VA 10-1-04, Rick Case Hyundai
Future Land Use Plan Map**

Prepared By: C.M.G.
Date Prepared: 7/15/05



The Town of Davie
 Development Services Department
 Planning and Zoning Division

Scale: N.T.S.



Vacation of Right-of-Way
VA 10-1-04, Rick Case Hyundai
Aerial, Zoning, Subject Site Map

Prepared By: C.M.G.
 Date Prepared: 7/15/05

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